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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,602	09/14/2000	Nicholas B. MacKinnon	1802-1-1	8935

996            7590            04/11/2003

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[REDACTED] EXAMINER

PHAM, HOA Q

ART UNIT	PAPER NUMBER
2877	

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/661,602	MACKINNON ET AL.
	Examiner	Art Unit
	Hoa Q. Pham	2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 January 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 32-57 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-31 and 58 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Group I (claims 1-34 and 58) in Paper No. 8 is acknowledged. The traversal is on the ground(s) that because it does not appear that examining all currently pending claims would pose an undue searching on the Examiner. This is not found persuasive because: (1) even though the searches would overlap, a separate search for each of the inventions is needed for the limitations recited in one invention, but not in the other invention and vice versa; (2) the "search" itself encompasses much more than a "field of search", search is primary a metal operation defined by what one looking for, not by where one is looking; (3) it is serious burden of search and examination because the "field of search" ignores the second part, "examination", of "search and examination", examination involves the continued consideration of various statutory requirements as well as formal matters throughout the prosecution of a patent application. Accordingly, claims 1-34 and 58 will be examined and claims 32-57 are drawn to non-elected claims. If applicant would like to cancel non-elected claims, please do so in the next response.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-31 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (6,369,883) in view of Rosow et al (5,953,112).

Regarding claims 1 and 58, Clark discloses a measurement system for testing a plurality of optical fibers in which the optical fibers are optically coupled to an integrating sphere using a fiber holder and an adapter. Clark does not explicitly teach that endoscopes are tested. However, such a feature is known in the art as taught by Rosow et al. Rosow et al discloses a photometric measurement system which is used to test the performance characteristics of fiber-optical endoscopes, for example, light loss test, a lighted fibers test, or MTF test (see abstract). For the purpose of testing the optical fibers, those of ordinary skill in the art at the time the invention was made to use the basic device of Clark to test the optical fibers of endoscopes as taught by Rosow et al because the device would function in the same manner.

Regarding claims 2 and 23, Clark teaches the use of a lamp or other light source (column 9, lines 64-66) and Rosow et al teaches the use of arc lamp or a halogen bulb or variable xenon short-arc lamp (column 5, lines 17-29).

Regarding claims 3-4, Clark teaches the use of an adapter (405) for coupling the fiber holder with integrating sphere (column 10, lines 6-8) and the adapters (405) and holders (501) may have differing size and structure for receiving different sized fibers (column 9, lines 51-62).

Regarding claims 5-7, 17, see column 5, lines 30-47 of Rosow et al, for image quality measurement module.

Regarding claim 8-16, and 18, of Clark teaches that the light meter may be calibrated (see column 10, lines 33-34). Thus, it would have been obvious to use different method for calibration, for example, the method as now claimed in claims 8-16.

Regarding claim 19, it would have been obvious matter of design choice to modify the Rosow et al reference by including a pressure transducer and a flow meter for the purpose of transferring gas, a liquid or a vacuum between the structure element measurement module and the endoscopes, thus improve the quality of the measurement.

Regarding claim 20, it would have been obvious to one having ordinary skill in the art to replace the photometer of Rosow et al or light meter of Clark by a spectrometer if one would like to measure different characteristics, such as color or appearance, of a sample.

Regarding claims 21-22 and 25-26, Clark teaches that the adapter may be fixed or detachable from the integrating sphere.

Regarding claim 24, figure 3 of Clark teaches that the fiber (403) is connected between the light source (401) and integrated sphere (406).

Regarding claims 27-29, see column 19, lines 40-51 of Rosow et al, for scanning CCD camera.

Regarding claims 30-31, it would have been obvious to one having ordinary skill in the art to rotate the endoscopes relative to the sensor if additional measurement is desired.

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4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Following references relate to integrating sphere: Selkowitz (4,915,500), Keane (4,932,779), Halyo et al (5,098,195), Doiron et al (5,251,004), Weber et al (6,424,413), and Duckett (6,388,742).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (703) 308-4808. The examiner can normally be reached on 6:30 AM to 5 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Hoa Q. Pham  
Primary Examiner  
Art Unit 2877

HP  
April 1, 2003